



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: Human Resources  
Department No.: 064  
For Agenda Of: May 15, 2007  
Placement: Administrative  
Estimated Tme:  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Supervisors

**FROM:** Department Susan Paul, Assistant CEO/HR Director, 568-2817  
Director(s)  
Contact Info: Scott Turnbull, Employee Benefits Mgr., 568-2821

**SUBJECT:** Commuter Benefits Plan

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** N/A

As to form: Select\_Concurrence

**Recommended Actions:** That the Board of Supervisors adopt the attached Commuter Benefits Plan document effective April 1, 2007.

**Summary Text:**

Adoption of this plan document will provide the administrative foundation for the Commuter Benefits Plan which enables employees to receive pre-tax treatment of their transit bus or vanpool expenses to the limits allowed by the Internal Revenue Service.

**Background:**

During the recent hearings on the Highway 101 Operational Improvements and Transportation Demand Management (TDM) Strategies, your Board authorized the implementation of the Commuter Choice Benefit and the expenditure of \$10 each month for employees participating in this program. This contribution will provide additional incentive for employees to participate in the program and reduce the amount of traffic on our highways.

Under Internal Revenue Code Section 132(f), employees can fund the costs of their transit bus or vanpool expenses up to \$110 per month using pre-tax salary deductions. The ceiling changes annually, and any transit costs over this amount can be deducted on a post tax basis. The attached Commuter Benefits Plan document provides the framework, policies and procedures for the administration of the benefit including the \$10 contribution by the County. This amount is included in the \$110 maximum pre-tax benefit.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:** Initial participation in the first few months of the program is estimated at 90 employees and should increase to at least 200 employees during the first year. At this level, the County cost, which is funded from departmental budgets would be \$24,000 per year (\$1,800 this fiscal year). ADP, the vendor that the County uses to administer the flexible spending accounts for medical and dependent care services, will administer the Commuter Benefits Program. The estimated annual costs for these services is \$12,000 (\$900 this fiscal year) and are paid by the Auditor-Controller's Office and funded by the FICA savings on any pre-tax salary election amounts for transit services.

**Staffing Impacts:**

**Legal Positions:**  
0

**FTEs:**  
0

**Special Instructions:**

Please return one signed copy of the attached Commuter Benefits Plan document.

**Attachments:**

Commuter Benefits Plan Document

**Authored by:**

Scott Turnbull, Employee Benefits Manager, 568-2821

**cc:**

**County of Santa Barbara  
Section 132(f)  
Commuter Benefits Plan  
Plan Document**

**Original Effective Date: April 1, 2007**

TABLE OF CONTENTS

ARTICLE I – INTRODUCTION ..... 1

    1.01 Establishment of Plan ..... 1

ARTICLE II – DEFINITIONS ..... 1

    2.01 Definitions ..... 1

ARTICLE III – ELIGIBILITY ..... 3

    3.01 Eligibility ..... 3

    3.02 Rehire ..... 3

ARTICLE IV – BENEFITS AND ELECTIONS ..... 3

    4.01. Election of Benefits ..... 3

    4.02. Employer Contribution ..... 4

    4.03 Time Period for Making, Modifying, or Revoking a Commuter Benefits Election  
    Election Agreement ..... 4

    4.04 Rollover of Unused Amount in Account ..... 4

    4.05 Termination of Employment ..... 4

    4.06 Substantiation ..... 5

ARTICLE V – ADMINISTRATION ..... 5

    5.01 Plan Administrator ..... 5

    5.02 Powers and Duties of the Plan Administrator ..... 5

ARTICLE VI – AMENDMENT AND TERMINATION ..... 5

ARTICLE VII – MISCELLANEOUS ..... 6

    7.01 Right to Assets ..... 6

    7.02 No Inducement, Contract or Guarantee of Employment ..... 6

    7.03 Payment of Expenses ..... 6

    7.04 Governing Law ..... 6

    7.05 Construction ..... 6

    7.06 Taxability of Benefits ..... 6

GENERAL PLAN INFORMATION ..... 7

    Name of Plan ..... 7

    Plan Sponsor ..... 7

    Plan Sponsor’s Address & Phone Number ..... 7

    Plan Period ..... 7

    Fiduciaries (Titles) & Address ..... 7

    Designated Legal Agent & Address ..... 7

ADOPTION OF PLAN ..... 8

## **ARTICLE I – INTRODUCTION**

### **1.01 Establishment of Plan**

Effective April 1, 2007, County of Santa Barbara (the “Employer”) establishes, pursuant to this document, the “County of Santa Barbara Section 132(f) Commuter Benefits Plan.”

The purpose of this Plan is to provide pretax transportation benefits in lieu of otherwise taxable compensation. It is intended that this Plan comply with the requirements of Internal Revenue Code § 132(f).

## **ARTICLE II – DEFINITIONS**

### **2.01 Definitions**

The terms used in this Plan shall have the meanings set forth in this Article unless the context in which they are used clearly indicates that some other meaning is intended.

**“Anniversary Date”** means the first day of any Plan Period.

**“Commuter Benefits Election Agreement”** means the actual or deemed agreement pursuant to which an Eligible Employee enrolls in the Plan in accordance with Article IV.

**“Commuter Highway Vehicle”** means any highway vehicle:

- (1) which has a seating capacity of at least six adults (not including the driver), and
- (2) of which at least 80% of the mileage use is reasonably expected to be used:
  - (a) for purposes of transporting Employees in connection with travel between their residences and their places of Employment, and
  - (b) on trips during which the number of Employees transported for such purposes is at least half of the adult seating capacity of such vehicle (not including the driver).

**“Commuter Highway Vehicle (Van Pool) Expenses”** means expenses incurred for transportation in a “commuter highway vehicle” if such transportation is in connection with travel between the Employee’s residence and place of Employment.

**“Code”** means the Internal Revenue Code, as amended from time to time.

**“Compensation”** means the cash wages or salary paid to an Employee by the Employer.

**"Coverage Period"** means the monthly, quarterly, semi-annual, annual, or other period, designated on the Commuter Benefits Election Agreement during which a Commuter Benefits Election Agreement is in effect and irrevocable.

**"Effective Date"** means **April 1, 2007**

**"Eligible Employee"** means all Employees who meet the eligibility requirements set forth in Article III.

**"Eligible Transportation Expenses"** means those qualified expenses incurred by the Employee to purchase or pay for Transit Pass Expenses or Commuter Highway Vehicle (Van Pool) Expenses incurred for purposes of transportation between an Employee's residence and place of Employment.

**"Employee"** means an individual that the Employer classifies as a regular Employee in a classification in the County's Salary Resolution, but does not include (1) any leased Employee (including, but not limited to, those individuals defined in Code § 414(n)), or (2) any individual classified by the Employer as a contract worker, independent contractor, temporary Employee or casual Employee, whether or not any such persons are on the Employer's W-2 payroll or are later classified as common-law Employees by a government agency or pursuant to a court action or other legal proceeding (including any settlement or judgment related thereto).

**"Employer"** means **County of Santa Barbara** that has adopted this Plan pursuant to Section 7.05.

**"Employment"** means the performance of services by an Employee for the Employer.

**"Plan"** means the **County of Santa Barbara** Section 132(f) Commuter Benefits Plan as set forth in its entirety in this document as may be amended from time to time.

**"Plan Period"** The Plan Period shall be a calendar month beginning on **May 1** and ending on **May 31**. Thereafter, the Plan Period shall be a one-month period beginning on the first day of the calendar month and ending on the last day of the calendar month.

**"Plan Administrator"** means the County of Santa Barbara, notwithstanding the fact that certain administrative functions for this Plan may be delegated to another person, persons or entity.

**"Plan Document"** means a formal document that describes the Plan benefits and provisions under which such benefits shall be paid to covered persons, including any amendments.

**"Plan Sponsor"** means the County of Santa Barbara sponsors this Plan. The Plan Sponsor may also be referred to as the Plan Administrator.

**“Pretax Dollars”** means the dollar amounts that an Employee may allocate to obtain benefits.

**“Transit Pass Expenses”** means expenses incurred for any pass, token, fare-card, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is:

- provided by any mass transit facilities, whether or not publicly owned; or
- provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle with a seating capacity of at least six adults (excluding the driver).

### **ARTICLE III – ELIGIBILITY**

#### **3.01 Eligibility**

Employees who are **regular full or part-time** shall be eligible to participate in the Plan on the first Coverage Period following such eligibility.

#### **3.02 Rehire**

If an Employee terminates his or her Employment for any reason including (but not limited to) disability, retirement, layoff, discharge, or voluntary resignation, and then is rehired, the Employee must complete any applicable waiting period established by the Employer before again becoming eligible to participate in the Plan.

### **ARTICLE IV – BENEFITS AND ELECTIONS**

#### **4.01. Election of Benefits**

Eligible Employees may enter into a Commuter Benefits Election Agreement with the Employer whereby the Employee agrees to reduce his or her unearned compensation by the amount of his or her anticipated future Eligible Transportation Expenses for the upcoming Coverage Period. The per payroll period reduction amount will be deducted on a pre-tax basis from the Employee’s compensation per payroll period until such time as the Employee changes his or her election for an upcoming Coverage Period.

- (a) **Monthly Limitation for Pre-tax Transit Pass Expenses and Commuter Highway Vehicle Expenses:** Pre-tax commuter benefit elections for combined expenses for Transit Pass Expenses and Commuter Highway Vehicle Expenses will not exceed the monthly value as set

forth in Code § 132(f), as adjusted for inflation. For 2007, the limitation on such value is \$110 per month; and

(b) **Special Rules for Transit Passes:** A cash reimbursement may not be provided for an Employee's mass transit expenses if a voucher (or similar item that may be exchanged only for a transit pass) is readily available to the Employer for direct distribution to Employees. A voucher (or similar item) is readily available if (1) the Employer can obtain the voucher on terms that are no less favorable than the terms available to an Employee directly, and (2) the Employer does not incur a significant administrative cost in obtaining the voucher. An administrative cost will be determined to be "significant" if the Plan Administrator (in its sole discretion) deems it so.

#### **4.02 Employer Contribution**

For each eligible Employee who enters into a Commuter Benefits Election Agreement with the Employer in order to reduce their compensation to pay for Eligible Transportation Expenses for an upcoming monthly Coverage Period, the County of Santa Barbara shall provide \$10 for that Employee as a qualified transportation fringe benefit so long as the Employee's makes a Commuter Benefits Election Amount of \$10 for in Eligible Transportation Expenses . Future monthly contributions by the Employer shall be conditioned on the continued participation of the Employee in the Plan for that monthly period.

#### **4.03 Commuter Benefits Administrative Services**

The Plan Administrator's designated vendor will, in coordination with the Employer, provide readily available transit passes and vouchers to the Employees via an online web-based system.

#### **4.04 Time Period for Making, Modifying, or Revoking a Commuter Benefits Election Agreement.**

A Commuter Benefits Election Agreement must be made on or before the fifth day of the month prior to the Coverage Period to which it relates. Once a Commuter Benefits Election Agreement is made, it cannot be changed after the fifth of the month. Commuter Benefits Election Agreements may only be changed for future Coverage Periods.

#### **4.05 Rollover of Unused Amount in Account**

Any amount in the Employee's account that has not been used for Eligible Transportation Expenses incurred prior to the end of the Coverage Period to which the Employee's Commuter Benefits Election Agreement applies will be carried over into future Coverage Periods.

#### **4.06 Termination of Employment**

The Employee's Commuter Benefits Election Agreement shall terminate upon termination of Employment. Amounts remaining in the Employee's Account will be forfeited. If Employee elected a salary reduction and still owes the Employer for that amount, that amount will be withheld from final pay.



## ARTICLE V – ADMINISTRATION

### 5.01 Plan Administrator

The Plan Administrator of the Plan shall be **County of Santa Barbara**, which shall act in its administrative capacity through the CEO/Human Resources Director.

### 5.02 Powers and Duties of the Plan Administrator

The Plan Administrator shall have exclusive responsibility for, and all powers necessary or desirable to carry out, the administration of the Plan, and without limitation on the foregoing, shall have complete discretionary power and authority to:

- (a) adopt any rules and regulations it deems desirable for the conduct of its affairs and the administration of the Plan;
- (b) take any action it deems necessary or appropriate to comply with any requirements of applicable law with respect to notice and disclosure and the preparation and filing of reports and forms, if necessary;
- (c) construe and interpret the Plan and make determinations (including factual determinations) under the provisions of the Plan with respect to all rights, benefits, duties and entitlements, including, but not limited to, eligibility for benefits, amounts of benefits payable, and all other matters pertaining to the operation and administration of the Plan, all of which determinations are to be made in the Plan Administrator's sole discretion;
- (d) appoint or employ persons to assist in the administration of the Plan; and
- (e) make any equitable adjustments to correct any error or omission discovered in the administration of the Plan.

## ARTICLE VI – AMENDMENT AND TERMINATION

**County of Santa Barbara** may at any time (1) amend the Plan contained in this document in any manner it deems advisable, or (2) terminate or limit the Plan contained in this document, effective as of the date specified in the instrument of amendment or termination, without the consent of any Eligible Employee or participating Employee. Such amendments may be retroactive to the extent deemed appropriate by **County of Santa Barbara** and may be made in contemplation of, or with specific reference to, a particular transaction, job elimination, reduction in force, or similar event.

The **County of Santa Barbara Board of Supervisors** shall be authorized to adopt on behalf of **County of Santa Barbara** all amendments to the Plan. Amendments shall be adopted in writing and signed by **County of Santa Barbara's** designated Officer of the Board of Supervisors.

## **ARTICLE VII – MISCELLANEOUS**

### **7.01 Right to Assets**

Neither the establishment of the Plan nor the payment of benefits under the Plan shall be construed as giving any legal or equitable right to any Eligible Employee, former Eligible Employee or participating Employee against **County of Santa Barbara** and all rights under any Plan shall be satisfied, if at all, only out of the general assets of the Employer.

### **7.02 No Inducement, Contract or Guarantee of Employment**

The Plan does not constitute inducement or consideration for the employment of any Eligible Employee, nor is it a contract between any Employer and Eligible Employee. Participation in the Plan shall not give any Eligible Employee any right to continued employment with his Employer, and the Employer retains the right to hire and discharge any Eligible Employee at any time, with or without cause, as if the Plan had never been adopted.

### **7.03 Payment of Expenses**

**County of Santa Barbara** shall pay all the expenses of administration of the Plan, the expenses of the Plan Administrator, and any other expenses incurred at the direction of the Plan Administrator.

### **7.04 Governing Law**

The Plan shall be governed, construed, administered and regulated in all respects under the laws of **California** (without regard to California's conflict of laws rules), except to the extent preempted by federal law.

### **7.05 Construction**

The Plan's headings and subheadings have been inserted for convenience of reference only and must be ignored in any construction of the provisions. If a provision of this Plan is illegal or invalid, that illegality or invalidity does not affect other provisions. Any term with an initial capital not expected by capitalization rules is a defined term according to Article II.

### **7.06 Taxability of Benefits**

The Employer makes no guarantee as to the excludability of benefits under this Plan from federal, state, or local taxes, and it shall be the Employee's sole responsibility to pay any taxes due as a result of the payment of benefits hereunder.

## **GENERAL PLAN INFORMATION**

### **Name of Plan**

**County of Santa Barbara Section 132(f) Commuter Benefits Plan**

### **Plan Sponsor**

**County of Santa Barbara**

### **Plan Sponsor's Address & Phone Number**

**County of Santa Barbara  
1226 Anacapa St.  
Santa Barbara, CA 93101  
805.568.2821**

### **Participating Employer(s)**

**County of Santa Barbara  
1226 Anacapa St.  
Santa Barbara, CA 93101**

### **Plan Sponsor ID Number (EIN)**

**95-6002833**

### **Plan Period**

**May 1 through May 31, thereafter each subsequent month beginning on the first of the month and ending on the last day of the month.**

### **Fiduciaries (Titles) & Address**

**County of Santa Barbara  
1226 Anacapa St.  
Santa Barbara, CA 93101**

### **Designated Legal Agent for Service of Process (Title) & Address**

**County of Santa Barbara  
Susan Paul, CEO/HR Director  
1226 Anacapa St.  
Santa Barbara, CA 931011**

**ADOPTION OF PLAN**

As evidence of the adoption of this Commuter Benefits Plan, effective **April 1, 2007**, the **County of Santa Barbara** has caused this instrument to be signed by its officers thereunder duly authorized and its County seal attached hereto.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COUNTY OF SANTA BARBARA

By: \_\_\_\_\_  
Brooks Firestone  
(Chair, Board of Supervisors)

ATTEST:

Michael Brown  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:  
Stephen Shane Stark  
County Counsel

APPROVED AS TO FORM:  
Robert W. Geis  
Auditor-Controller

By: \_\_\_\_\_  
Deputy County Counsel

By: \_\_\_\_\_